

EXHIBIT N



U.S. Department of Justice

Andrew E. Lelling
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March 9, 2020

SENT VIA E-MAIL

Counsel of Record

Re: *United States v. David Sidoo, et al.*
Case No. 19-cr-10080-NMG

Dear Counsel:

We write in response to the February 28, 2020 letter on behalf of all defendants. The following is a chronological account of the government's February 26, 2020 production of notes from Rick Singer's phone ("8802 phone") (collectively "Singer Notes"). This letter is produced pursuant to the agreed-upon protective order.

1. On September 21, 2018, the government approached Rick Singer about cooperating in the investigation of the above-referenced case.
2. On October 5, 2018, Singer signed a consent to search form for the 8802 phone and agents first imaged the phone.¹ The government did not treat Singer's consent to search as a waiver of Singer's attorney-client privilege.
3. On October 9, 2018, AUSA Chris Looney was assigned as a taint AUSA to assist on the above-referenced case.
4. On October 9, 2018, the government asked Singer's attorney to confirm that the government could search the 8802 phone without a taint protocol.
5. On October 11, 2018, Singer's attorney agreed that the government could search the 8802 phone without a taint protocol, noting that he had reviewed the text messages

¹ As noted in the government's February 26, 2020 letter, the phone was imaged on or about October 5, 2018, October 23, 2018, November 1, 2018, November 29, 2018, January 3, 2019, February 15, 2019, February 28, 2019, and March 11, 2019. The government has provided copies of each image.

between himself and Singer. Singer's attorney said nothing about the notes portion of Singer's phone.

6. On or about October 28, 2018, AUSA Justin O'Connell reviewed a portion of the Singer Notes, including part of the "Oct 2" entry.
7. On October 28, 2018, AUSA O'Connell excerpted a portion of the "Oct 2" entry in the Singer Notes and emailed it to AUSA Eric Rosen and the FBI agents assigned to the above-referenced case.²
8. AUSAs Rosen and O'Connell believed that the notes were written by Singer at the behest of his attorney and may be privileged, despite the consent to search. As a result, they did not further review the Singer Notes.
9. Between March 5, 2019 and April 9, 2019, the government indicted all of the defendants in the above-referenced case.³
10. On August 18, 2019, AUSA O'Connell notified AUSA Looney that they were going to have Singer's attorney review certain materials from the 8802 phone for potential privilege, and that Singer's attorney would work with AUSA Looney if he found anything.
11. Between August 20-21, 2019, a taint folder was created containing the eight images of the 8802 phone. On August 21, 2019, AUSA Looney was granted access to that folder.
12. On October 4, 2019, AUSA Looney produced a copy of the Singer Notes to Singer's attorney to review for potential privilege.
13. From at least December 2019 through February 2020, Singer's attorney was [REDACTED] and did not review the Singer Notes.
14. On February 1, 2020, AUSA Rosen emailed AUSA Looney, copying Singer's attorney and AUSA O'Connell, stating that Singer's attorney would redact privileged portions of the Singer Notes and send them back in redacted form. AUSA Rosen requested that, after that was done, AUSA Looney confirm that anything privileged had been excised and they would discuss next steps. AUSA Looney responded that he would look out for a copy from Singer's attorney of the Singer Notes.

² At or about this time, a contract attorney working on the investigation of the above-referenced case viewed a different portion of the Singer Notes. The contract attorney reported a portion of what he saw to AUSAs Rosen and O'Connell.

³ Defendant Sidoo was indicted on March 5, 2019, although the indictment was then under seal, and defendants Amy and Greg Colburn were indicted on March 26, 2019. The remaining defendants were indicted on April 9, 2019.

15. On February 19, 2020, AUSA Rosen emailed AUSA Looney that the defense group wanted certain materials from the 8802 phone. AUSA Rosen asked AUSA Looney to pull these materials, and make sure any communications between Singer and his attorney were not included.
16. On February 19, 2020, AUSA Looney began reviewing and extracting the requested materials in the 8802 phone. During the course of this project, AUSA Looney reviewed the Singer Notes for the first time.
17. On February 20, 2020, AUSA Looney emailed Singer's attorney and asked for a sense of Singer's attorney's timing (regarding the Singer Notes).
18. Between February 20 and February 24, 2020, AUSA Looney, a taint AUSA supervisor, and Singer's attorney discussed the status of privilege claims regarding the 8802 phone.
19. On or about February 24, 2020, AUSA Looney and the taint AUSA supervisor obtained a privilege waiver from Singer (through Singer's attorney) for the Singer Notes and provided them to the investigative team. On February 26, 2020, the government produced the Singer Notes to defendants.

If you have any questions regarding this timeline, please feel free to contact the undersigned AUSAs at your convenience.

Sincerely,

ANDREW E. LELLING
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